Court Fight Links Cigarets Cancer, Brookline Man Asks $1,250,000

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Test Shapes Up Here

Cigarets On Trial In Cancer Case

[Experts study way to slow cancer down, Page 9.]

Selection of a jury began in Federal Court today for what may turn out to be a national test case involving a cancer victim's claim against a cigaret manufacturer.

If the case goes to trial on Monday, as expected, it will be the first of its kind ever heard. A similar suit on the West Coast last year was dismissed.

The claim for damages comes from Otto Pritchard, a Brookline carpenter, who began his legal fight in 1954, a year after one of his lungs was removed in a cancer operation.

Mr. Pritchard, 61, brought suit against the Liggett & Myers Tobacco Co. with the charge that his cancer was caused by his long use of Chesterfield cigarets.

He said he smoked Chesterfields regularly for 23 years.

The delay in bringing the suit to trial was reportedly caused by the vast amount of research and preparation by lawyers involved in the case.

Representing Mr. Pritchard are attorneys James P. McArdle and James McLaughlin. Appearing in behalf of Liggett & Myers will be attorneys Earl Reed and Kenneth Jackson, of Pittsburgh, and Fred Haas, of New York City.

The cigaret firm is specifically charged on three counts:

—Negligence in failing to know that the use of its cigarets over a long period of time could cause a harmful disease.

—Misleading and false advertising in making smokers believe that its cigarets were not harmful.

—Negligent design of the cigarets.

The trial, which is expected to run at least three weeks, will involve numerous experts in tobacco research and medicine. It will be heard by Federal Judge John Miller.

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Both sides told a jury their stands today in a Federal Court suit which may focus the attention of the world's cigaret smokers on Pittsburgh.

It's a $1,250,000 action by a Brookline man against Liggett & Myers Tobacco Co., and the question at issue is:

"Did smoking Chesterfield cigarets cause lung cancer in the plaintiff?"

The suit was brought by Otto Pritchard, 60, of 1833 Pioneer Ave., Brookline, carpenter and cabinet maker.

HE SAID HE SMOKED A carton of Chesterfields a week for 29 years until stricken in 1953.

The morning before undergoing removal of part of a lung was the last time Pritchard smoked.

That was Dec. 11, 1953. He said he smoked two packages in two hours and 15 minutes. Asked why, he replied:

"I didn't think I was going to smoke any more."

Pritchard's attorney, J. P. McArdle told the jury of seven women and five men:

"This is not a frivolous case nor an experiment in law. If it were, we would not be able to get some of the distinguished witnesses we have been successful in calling."

ATTORNEY EARL REED, representing Liggett & Myers, said:

"We are going to show you something of Mr. Pritchard's history. We are going to show he worked in occupations which are recognized to have extremely high incidence of lung cancers.

"He worked as a carpenter and metalworker, and we will show you he had lung trouble long before the operation."

Pritchard said he had a blood clot in a vessel leading to a lung a year before the cancer operation.

HE SAID HE occasionally switched brands of cigarets after starting smoking Chesterfields in 1924 and occasionally turned to a pipe or cigars, but always went back to Chesterfields. He also said he would quit now and then for a week.

Reed told the jurors they would have to be convinced that Chesterfields alone caused Pritchard's lung cancer in order to return a verdict against Liggett & Meyers.

Even a decision that Chesterfields were a contributing factor wouldn't be enough, Reed said. He also said:

'I want to caution you about the crusaders. These are honest crusaders, but they are convinced lung cancer is caused by cigaret smoking. They write a great many more articles and say more than the body of the medical profession."

THE SUIT ACCUSES the firm of negligence in these respects:

- Design and manufacture of Chesterfield cigarets.
- Failure to warn . . . of inherent danger which the defendant knew or should have known existed in its product.
- Making false and misleading representations to the public with respect to the safety and contents of the product.

The question of cigarets and cancer has been argued for years, but this could be the first time it's answered in court.

Previous similar cases ended in mistrials in Miami and New Orleans, and a West Coast plaintiff failed to bring a suit to trial.

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